

1 MR. ALPERT: No objection, Your Honor.  
2 JUDGE MILLER: Mr. Yelverton?  
3 MR. YELVERTON: No objection, Your Honor.  
4 JUDGE MILLER: Mr. Belendiuk?  
5 MR. BELENDIUK: No objection, Your Honor.  
6 JUDGE MILLER: Exhibit No. 2 -- ASF Exhibit No. 2 is  
7 received.  
8 (Whereupon, the document referred to  
9 as ASF Exhibit No. 2 was received  
10 into evidence.)  
11 MR. KOERNER: I'd like to move into evidence Exhibit  
12 -- what's been marked for identification as ASF Exhibit 3.  
13 JUDGE MILLER: Just a minute. Before we go on, Mr.  
14 Koerner. Going back to Exhibit 1 just a, just for a second.  
15 Am I entitled to assume, based on the figures there in Exhibit  
16 1, that Mr. Beauvais owns 75 percent equity and Ardeth  
17 Frizzell owns a 25 percent equity in the company?  
18 MR. KOERNER: Yes, Your Honor.  
19 JUDGE MILLER: Okay. All right. Go ahead. You  
20 offer Exhibit No. 3?  
21 MR. KOERNER: I do, Your Honor.  
22 JUDGE MILLER: Ms. Conners?  
23 MS. CONNER: No objection, Your Honor.  
24 JUDGE MILLER: Mr. Alpert?  
25 MR. ALPERT: Yes, Your Honor. Paragraph number 2,

1 | where it states from 1964 to 1965 Ms. Frizzell worked for  
2 | DeLuca Beauty Salon as General Manager, troubleshooter,  
3 | receptionist, etc. It goes on with some other description of  
4 | her duties at that job. I would move to strike that as  
5 | irrelevant to anything at issue in this proceeding.

6 | JUDGE MILLER: You -- your objection is overruled.  
7 | You've been in hearings with me before on this very point,  
8 | haven't you?

9 | MR. ALPERT: I'm --

10 | JUDGE MILLER: Oh, okay, let me tell you what I do.  
11 | I look at, I look at my integrated stockholder's total  
12 | background. Now, it may be that they never worked for a radio  
13 | station, but they -- the type of background they have is the  
14 | kind that convinces me they could run a radio station. So  
15 | that I, I, I look at more than just broadcast experience when  
16 | I, when I analyze.

17 | In other words, what I try to give to the Commission  
18 | eventually is what I believe is not only somebody that's not  
19 | only the best integrated applicant, but an applicant that I'm  
20 | convinced in my mind can run a radio station. And it might  
21 | sound like a simple proposition, but there's, there's a lot  
22 | that goes into running a radio station and not the least of  
23 | which is selling advertising. That's kind of makes -- what  
24 | makes the wheels spin. So your objection, without commenting  
25 | on, on an analysis of paragraph 2, I -- it is relevant. Okay.

1 Anything further, Mr. Alpert?

2 MR. ALPERT: Yes. Well, in light of that, Your  
3 Honor, I won't make the next two objections I would have had,  
4 but I'll move on to page 2, the paragraph toward the bottom of  
5 the page where it states "For her entire life, Ardeth  
6 Frizzell...lived in the Columbus, Ohio area." However, the  
7 next sentence goes into -- conceding the fact that this was  
8 outside the 1 mV/m contour.

9 I believe in the Armando Garcia case, an applicant  
10 was just outside of the contour and received no comparative  
11 credit whatsoever and the fact that they lived nearby but  
12 outside was deemed irrelevant, so I would move to strike the  
13 first sentence of that paragraph.

14 JUDGE MILLER: Don't you, don't you want -- I'm  
15 going to, I'm going to do you a big favor. I'm going to  
16 overrule your objection. You have, in writing, proof positive  
17 they live outside the area. Even though it's in the Columbus  
18 area, they live outside -- what, what more do you want than  
19 that --

20 MR. ALPERT: Well, Your Honor.

21 JUDGE MILLER: -- Mr. Alpert.

22 MR. ALPERT: Well, I, I concede that I'm leaving in  
23 for that very reason the second sentence. I'm not moving to  
24 strike the second sentence.

25 JUDGE MILLER: Well --

1 MR. ALPERT: The first sentence to the extent that I  
2 detect that she might claim that because she lived nearby that  
3 she never left --

4 JUDGE MILLER: She -- well, she can do that whether  
5 that sentence is in or out and, and Mr. Koerner may try to do  
6 it and he may well run right into your citation, but I think,  
7 I think you want it in, Mr. Alpert.

8 MR. ALPERT: I won't -- your experience, Your Honor.

9 JUDGE MILLER: Proceed then -- next objection.

10 MR. ALPERT: I have no further objections, Your  
11 Honor.

12 JUDGE MILLER: All right. Mr. Yelverton?

13 MR. YELVERTON: Yes, Your Honor, I have an objection  
14 on page 3, the first paragraph, the last two sentences. "At  
15 the time Station WBBY went off the air, in December 1991,  
16 Ardeth Frizzell made the decision that she would make every  
17 attempt to acquire the station and to re-hire as many of the  
18 then-existing employees as possible. This was her motivation  
19 for filing the application, and remains her motivation for  
20 prosecuting it."

21 Move to strike that as irrelevant to the integration  
22 proposal. It may have some relevance -- something else. I'm  
23 not quite certain, but I don't think it goes to her commitment  
24 to be a general manager.

25 MR. KOERNER: May I --

1 JUDGE MILLER: Yes, you may, Mr. Koerner.

2 MR. KOERNER: Your Honor, I think it's very  
3 relevant. It provides the basis upon which she filed the  
4 application and I'm certain there will be some questions in  
5 cross-examination as to how she found out about the  
6 opportunity, why she did it, etc., etc.

7 JUDGE MILLER: That's correct. You are absolutely  
8 correct. There will be some questions. If not from other  
9 parties, probably from me and I may even go so far as to ask  
10 whether it was Ardeth Frizzell that contacted the firm Mr.  
11 Koerner works for or whether it was Mr. Beauvais. I, I would,  
12 would -- I would want to know that and I think -- so I think  
13 this is a -- an explanatory -- an explanation that foresees  
14 what the problems would be and the objection is overruled, Mr.  
15 Yelverton.

16 MR. YELVERTON: Thank, thank you, Your Honor. And I  
17 have one further objection in the last paragraph, last  
18 sentence, referring to the fact Ms. Frizzell claims credit for  
19 female status. Of course it's noted in there the Commission  
20 does not recognize that status, neither does the U.S. Court of  
21 Appeals and I therefore move to strike it as legally  
22 irrelevant.

23 JUDGE MILLER: You know, I, I, I enjoy talking to  
24 you, Mr. Yelverton, but what I rule, what I rule on that -- on  
25 that, that probably has less impact than anything in the

1 world. Even if I struck it -- you know, they're going to make  
2 a claim and, and I can't say, I can't say in all honesty that,  
3 that if I were their lawyer I wouldn't make the same pitch  
4 when I told them, because anything can happen -- and anything  
5 has in the connections with a female preferences.

6 I, I can tell you now that unless there's a change  
7 between now and the time I write my decision in this case, I'm  
8 not going to give any credit for, for female status. Whether  
9 it's in or out, I'm not, I'm not going to give any credit for  
10 female status, Mr. Yelverton. But assuming that -- I'm not  
11 going to assume that that calms your interest, but I'll  
12 overrule your objection.

13 MR. YELVERTON: Thank you, Your Honor.

14 JUDGE MILLER: Anything further on Exhibit 3, Mr.  
15 Yelverton?

16 MR. YELVERTON: None, Your Honor.

17 JUDGE MILLER: Mr. Belendiuk?

18 MR. BELENDIUK: No, Your Honor.

19 JUDGE MILLER: ASF Exhibit No. 3 is received subject  
20 to the rulings that I've made.

21 (Whereupon, the document referred to  
22 as ASF Exhibit No. 3 was received  
23 into evidence.)

24 JUDGE MILLER: All right. Next, Mr. Koerner.

25 MR. KOERNER: I'd move into evidence what's been

1 identified as ASF Exhibit 4.

2 JUDGE MILLER: Objections, Ms. Conners?

3 MS. CONNER: No, sir, Your Honor.

4 JUDGE MILLER: Mr. Alpert?

5 MR. ALPERT: No, sir, Your Honor.

6 JUDGE MILLER: Mr. Yelverton?

7 MR. YELVERTON: Your Honor, you know, mindful of  
8 your previous ruling --

9 JUDGE MILLER: Your same objections, same ruling,  
10 finances are finances and we -- you may get a chance to look  
11 at it, but as far as I'm concerned this is simply a promise  
12 that they're going to put in auxiliary power. Right?

13 MR. YELVERTON: Yes, Your Honor.

14 JUDGE MILLER: That was the objection you were going  
15 to make?

16 MR. YELVERTON: Yeah, exactly.

17 JUDGE MILLER: Okay. And the same -- and so it's  
18 the same objection and the same ruling. Anything further?  
19 Mr. Belendiuk, any objections on 4?

20 MR. BELENDIUK: No, Your Honor.

21 JUDGE MILLER: ASF Exhibit No. 4 is received subject  
22 to the rulings that I have made.

23 (Whereupon, the document referred to  
24 as ASF Exhibit No. 4 was received  
25 into evidence.)

1 JUDGE MILLER: Does that complete your evidentiary  
2 submission, Mr. Koerner?

3 MR. KOERNER: Yes, it does, Your Honor.

4 JUDGE MILLER: All right. Next we come to Wilburn  
5 Industries.

6 MS. CONNER: Your Honor, I've handed to the Reporter  
7 a document entitled Direct Hearing Exhibits -- Direct Case  
8 Exhibits of Wilburn Industries, Inc. It consists of Exhibits  
9 No. 1 and 2 and I'd ask that Exhibit No. 1 be marked for  
10 identification. It's a one-page exhibit -- well, one page  
11 entitled The Applicant, the one-page affidavit, and two-page  
12 attachment, for a total of four pages. I'd ask that that be  
13 marked as Exhibit 1.

14 JUDGE MILLER: Those documents you just described  
15 will be marked for identification as Wilburn -- Wilburn  
16 Exhibit 1.

17 (Whereupon, the document referred to  
18 as Wilburn Exhibit No. 1 was marked  
19 for identification.)

20 MS. CONNER: Thank you. The exhibit -- Wilburn  
21 Exhibit 2 -- I'd ask that we mark for identification Wilburn  
22 Exhibit 2, which is a two-page exhibit entitled Direct Written  
23 Testimony of Charles W. Wilburn. And I'd ask that -- that  
24 that also be marked for identification as Wilburn Exhibit 2.

25 JUDGE MILLER: The document you just described will



1 be marked for identification as Wilburn Exhibit 2.

2 (Whereupon, the document referred to  
3 as Wilburn Exhibit No. 2 was marked  
4 for identification.)

5 MS. CONNER: Thank you, Your Honor. At this time  
6 I'd like to move Wilburn Exhibit 1 into evidence.

7 JUDGE MILLER: Mr. Alpert?

8 MR. ALPERT: No objection, Your Honor.

9 JUDGE MILLER: Mr. Yelverton?

10 MR. YELVERTON: No objection, Your Honor.

11 JUDGE MILLER: Mr. Belendiuk?

12 MR. BELENDIUK: No objections, Your Honor.

13 JUDGE MILLER: Mr. Koerner?

14 MR. KOERNER: No objection, Your Honor

15 JUDGE MILLER: Wilburn Exhibit 1 is received.

16 (Whereupon, the document referred to  
17 as Wilburn Exhibit No. 1 was received  
18 into evidence.)

19 MS. CONNER: Thank you, Your Honor. At this time  
20 I'd like to move Wilburn Exhibit 2 for admission into  
21 evidence.

22 JUDGE MILLER: Mr. Alpert?

23 MR. ALPERT: No objections, Your Honor.

24 JUDGE MILLER: Mr. Yelverton?

25 MR. YELVERTON: Your Honor, I have a query to

1 counsel for Wilburn. The last paragraph on page 1, which  
2 states "I," meaning Charles Wilburn, "presently resides in  
3 Upper Arlington, Ohio." Am I correct in assuming that Wilburn  
4 is claiming no comparative credit for past residence and is  
5 only claiming credit for present and future residence within  
6 the service area?

7 MS. CONNER: I don't think that that's correct.  
8 However, Mr. Kravetz could answer your question better.

9 JUDGE MILLER: Well, let me say this, Mr. Yelverton,  
10 to you. At the present time, I have interpreted that  
11 paragraph to mean that she is making no claim for past  
12 residence. She is, she is telling me where -- he is telling  
13 me where he resides and what he intends to do if his  
14 application is granted. This is a -- an outsider moving in,  
15 you know, and they get the kind of credit that you give an  
16 outsider moving in. Now, is that -- does that answer your  
17 inquiry?

18 MR. YELVERTON: Yes, Your Honor.

19 JUDGE MILLER: It might not answer what they mean,  
20 but it -- it will tell you how I'm interpreting it. Mr.  
21 Alpert?

22 MR. ALPERT: If I may just speak for the record, I  
23 believe that your interpretation is correct based upon the  
24 representations that I believe that they have made in the  
25 past, namely in their integration statements they have not

1 | claimed credit for past residency and I think in depositions  
2 | it was conceded that although they might be within the  
3 | contours of some other applicants, they're not within the  
4 | contour of their own application.

5 |           JUDGE MILLER: Well, I appreciate your statement,  
6 | but let me tell you that what I'm relying on is nothing in  
7 | depositions, it's what, it's what -- based on the face of this  
8 | exhibit and that's all the further I should look until --  
9 | unless and until some deposition testimony is introduced.

10 |           I will tell you this, Ms. Conners, that Mr. Wilburn  
11 | better come prepared to answer a few simple questions about  
12 | how far Circleville is from Westerville, how long he's been in  
13 | legal practice there, is he in legal practice with anyone  
14 | else, if he is -- and he doesn't need to tell me his precise  
15 | income from his law practice, but I'd like to know if he's  
16 | turned a corner and whether he's showing a profit there.  
17 | Those are just some simple facts that I'm -- I think ought to  
18 | be on this record. With that --

19 |           MR. ALPERT: I have no further objections.

20 |           JUDGE MILLER: All right. Mr. Belendiuk? Any  
21 | objections?

22 |           MR. BELENDIUK: No, Your Honor.

23 |           JUDGE MILLER: Any -- Mr. Koerner?

24 |           MR. KOERNER: No objections, Your Honor

25 |           JUDGE MILLER: Exhibit 2 is received subject to the

1 | rulings I've made.

2 | (Whereupon, the document referred to  
3 | as Wilburn Exhibit No. 2 was received  
4 | into evidence.)

5 | MS. CONNER: Thank you, Your Honor.

6 | JUDGE MILLER: Does that complete your evidentiary  
7 | submissions?

8 | MS. CONNER: Yes, sir, Your Honor, it does.

9 | JUDGE MILLER: All right. Mr. Alpert?

10 | MR. ALPERT: Yes, sir. I'm handing the Court  
11 | Reporter an original and one copy of documents entitled Direct  
12 | Case Exhibits of Shellee F. Davis. I'd first like to identify  
13 | for the record Exhibit No. 1. The testimony of Shellee Davis  
14 | in Exhibit No. 1 consists of seven pages and it also consists  
15 | of 16 attachments with page numbers as I'm going to delineate  
16 | right now.

17 | Attachment A are -- is two pages, Attachment B is  
18 | three pages, Attachment C is one page, Attachment D is two  
19 | pages, Attachment E is three pages, Attachment F is one page,  
20 | Attachment G is four pages, Attachment H is two pages,  
21 | Attachment I is one page, Attachment J is two pages,  
22 | Attachment K is one page, Attachment L, M, N, O, and P are  
23 | each one page. That's a total of 16 attachments. Following  
24 | all that is the declaration of Shellee Davis. And that is  
25 | Attachment -- excuse me, Exhibit 1, which I'd like to identify

1 for the record at this time.

2 JUDGE MILLER: That document that you've just  
3 described will be marked for identification as Davis Exhibit  
4 No. 1.

5 (Whereupon, the document referred to  
6 as Davis Exhibit No. 1 was marked for  
7 identification.)

8 MR. ALPERT: Thank you, Your Honor. I'd also like  
9 to have identified for the record a -- an exhibit which is  
10 Exhibit No. 2, which consists of one page and is entitled  
11 Auxiliary Power and it follows -- following it us the  
12 declaration of Shellee F. Davis.

13 JUDGE MILLER: Document --

14 MR. ALPERT: I'd like to have that identified, Your  
15 Honor.

16 JUDGE MILLER: The documents you just described will  
17 be marked for identification as Davis Exhibit No. 2.

18 (Whereupon, the document referred to  
19 as Davis Exhibit No. 2 was marked for  
20 identification.)

21 MR. ALPERT: In light of that, Your Honor, I'd like  
22 to move into evidence Exhibit No. 1, which is entitled  
23 Integration and Diversification.

24 JUDGE MILLER: Mr. Yelverton?

25 MR. YELVERTON: Yes, Your Honor. I have some

1 objections. First, again mindful of your ruling with respect  
2 to ASF, I would note for the record Ms. Davis is seeking  
3 enhancement credit because of her gender and makes no  
4 qualification that it's not currently Commission policy and  
5 would soon have the same ruling that female preference would  
6 not be --

7 JUDGE MILLER: I'm not going to treat her any  
8 different than I treated --

9 MR. YELVERTON: Yes.

10 JUDGE MILLER: -- Ms. Frizzell.

11 MR. ALPERT: Thank you, Your Honor.

12 JUDGE MILLER: If that's, that's the question you're  
13 asking.

14 MR. YELVERTON: Also, I would note -- at least my  
15 copy of the exhibit has two page 2s and so I would move to  
16 strike the second one administratively.

17 JUDGE MILLER: I'm sorry.

18 MR. YELVERTON: My copy of the hearing exhibit has a  
19 duplicate copy of page 2.

20 JUDGE MILLER: Page 2 of 7?

21 MR. YELVERTON: Yes.

22 UNIDENTIFIED SPEAKER: It appears that mine does,  
23 also, Your Honor.

24 JUDGE MILLER: How, how about -- let's, let's -- do  
25 what's really important. Do the record copies that you turned

1 over have a dual page 2?

2 COURT REPORTER: Well, actually yes.

3 JUDGE MILLER: There's two page 2 of 7s? Let's,  
4 let's, let's remove that.

5 MR. ALPERT: Well, Your Honor, let me check for 1/7,  
6 make sure that -- which one is the accurate one. To make sure  
7 they're exact duplicates. It'll just be one second. It's  
8 possible that one might have corrected a typo which -- or  
9 something like that.

10 JUDGE MILLER: Well, why don't you, why don't you do  
11 that --

12 MR. ALPERT: Yeah. They're not exactly the same.  
13 If you'll just give me one moment, Your Honor. Okay. The  
14 first version of page 2 is correct. The second version is the  
15 incorrect one. So the one that begins at the top of the page  
16 with drive on page 2 is the correct one --

17 JUDGE MILLER: D-R?

18 MR. ALPERT: D-R period. The one that begins with  
19 Moccasin is the incorrect one.

20 JUDGE MILLER: All right. How, how is yours, Mr.  
21 Koerner?

22 MR. KOERNER: It's the same, Your Honor.

23 JUDGE MILLER: What do you mean it's the same?

24 MR. KOERNER: It also has a duplicate page 2.

25 JUDGE MILLER: Okay. Ms. Conners?

1 MS. CONNER: I have a duplicate page 2.

2 JUDGE MILLER: Mr. Belendiuk.

3 MR. BELENDIUK: I'm afraid it's unanimous, Your  
4 Honor, although I tore mine out.

5 JUDGE MILLER: Well, it isn't unanimous, because I  
6 have just a single page 2 with a capital D-R at the top -- at  
7 its top. I, I was spared the Moccasin. But let's get, let's  
8 get the, the Moccasin removed from the two, two, two-record  
9 copies. Okay? All right. Now, Mr. Yelverton, with that in  
10 mind and with, with the -- having been informed which is the  
11 right page 2 --

12 MR. YELVERTON: Yes.

13 JUDGE MILLER: -- I -- your, your objection was  
14 granted to that extent.

15 MR. YELVERTON: Thank, thank you, Your Honor.

16 JUDGE MILLER: We cleared that up.

17 MR. YELVERTON: And I'd like to move onto page 5 of  
18 7 and to -- first I'd like to move to strike the last  
19 paragraph of page 5, which is the bottom of the page and  
20 starts "In general, all of the awards and honors that Ms.  
21 Davis has received..." and so on. This should be stricken as  
22 conclusory and as argumentative --

23 JUDGE MILLER: How far are you, how far, how far are  
24 you, how far are you -- the whole paragraph?

25 MR. YELVERTON: Going down to the end of the page



1 | which ends with the word "...in particular." With the word  
2 | "...particular." Would you like me to read the whole  
3 | paragraph for the record?

4 | JUDGE MILLER: Well, I -- all I want to know is what  
5 | I'm ruling on.

6 | MR. YELVERTON: Yes.

7 | JUDGE MILLER: And I think it, I think it helps me  
8 | when -- helps everybody, including myself, if I know what I'm  
9 | ruling on.

10 | MR. YELVERTON: Okay. It's, it's a whole paragraph  
11 | at the bottom of the page.

12 | JUDGE MILLER: Okay.

13 | MR. YELVERTON: It starts "In general..." and ends  
14 | with the word "...particular" and move to strike it as  
15 | conclusory and argumentative and not factual.

16 | JUDGE MILLER: I don't know if it's argumentative,  
17 | but --

18 | MR. ALPERT: May I respond, Your Honor?

19 | JUDGE MILLER: You -- I'll hear from you, Mr., Mr.  
20 | Alpert.

21 | MR. ALPERT: This is her testimony concerning her,  
22 | her community involvement and what the nature and extent of  
23 | some of the awards and recognition that she has received in  
24 | the past entails. And her own basic philosophy. If they want  
25 | to cross-examine her concerning that philosophy and whether

1 | it's the true and valid statement of, of what she's been doing  
2 | and what she intends to do in the future, that's -- they have  
3 | that right to do it.

4 |           JUDGE MILLER: The, the objection is sustained and  
5 | the last paragraph will be stricken.

6 |           MR. YELVERTON: Your Honor, continuing on page 5,  
7 | the paragraph at the top of the page, line 3 makes a reference  
8 | to 1991 National Urban League Conference Presenter and I  
9 | believe from exhibits elsewhere in this -- these pages  
10 | elsewhere in this exhibit indicates this National Urban League  
11 | Conference Presenter was held in Atlanta and because that's  
12 | outside the service area, we would contend that it's legally  
13 | irrelevant.

14 |           JUDGE MILLER: Well, the conference was held in  
15 | Atlanta. Does that make, does that make the National Urban  
16 | League institution that is located in -- within the service  
17 | area irrelevant?

18 |           MR. YELVERTON: Well, I, I --

19 |           JUDGE MILLER: That is my question.

20 |           MR. YELVERTON: I think Ms. Davis would have to show  
21 | some specific connection to activities, charitable civic  
22 | activities with, within the service area, you know, rather  
23 | than things that would be business-related and, and related to  
24 | matters out, outside the service area.

25 |           JUDGE MILLER: Mr. Alpert?

1 MR. ALPERT: It's my understanding that her  
2 participation in the National Urban League is, indeed, a local  
3 activity. She was a presenter at a, at a organization  
4 conference that just happened to be held in Atlanta. As Your  
5 Honor pointed out, I believe that that does not in any way  
6 detract from her participation in the organization.

7 JUDGE MILLER: Your objection's overruled, Mr.  
8 Yelverton.

9 MR. YELVERTON: Thank you, Your Honor. I'd like to  
10 continue on in this paragraph. References to awards that Ms.  
11 Davis has received, Entrepreneur of the Year, references to  
12 Emerging Entrepreneur, which we move to strike as being  
13 related to her, her business and not a type of community  
14 activities cognizable for civic involvement under Commission  
15 policy.

16 JUDGE MILLER: Your objection is overruled. I am, I  
17 am -- with this caveat. I may not -- may well not include  
18 that as a civic -- necessarily a civic activity. I may, I  
19 don't know right now, but in any event, it gives me some, some  
20 idea of her background. What she's done, what she's capable  
21 of doing, what she has done in the past.

22 MR. YELVERTON: Your Honor, I, I would have no  
23 objection --

24 JUDGE MILLER: And so, so --

25 MR. YELVERTON: -- on that basis.

1 JUDGE MILLER: -- I, I will, I will overrule the  
2 objection and indicate that I will make the decision as to how  
3 to use that material when, when, when this hearing is over.

4 MR. YELVERTON: Thank you, Your Honor. Now, I would  
5 also note for the record and mindful of your ruling, there's  
6 further reference in there to award for Minority Business of  
7 the Year and number one Xerox regional dealership and so on  
8 and I assume all the material will be encompassed within your  
9 ruling. Next, I'd like to move to page 6 of 7 as to specific  
10 examples of community involvement.

11 Move to strike the second entry after the zero mark  
12 on the left column, which says "Guest on 'News 4 at Sunrise,'  
13 1991, in conjunction with Entrepreneurship Women Week." Move  
14 to strike that as not civic involvement, appearing on a TV  
15 program may be useful as to her background as a business  
16 person, but definitely not civic involvement under Commission  
17 policy.

18 JUDGE MILLER: Mr. Alpert?

19 MR. ALPERT: She has no requirement in her business  
20 to appear and participate in, in discussions concerning  
21 various -- weeks, for example, that have been designated as  
22 topics of discussion within the community. In this case she  
23 was a guest on a program concerning a particular event,  
24 Entrepreneurship Women Week, and she was interviewed, presented  
25 information. That's an activity concerning where she's

1 providing information to the community.

2 Now, if Mr. Yelverton is arguing to the weight that  
3 should be attached to it as far as summing that -- to that  
4 effect, that's a different matter, but it is a participation  
5 in a, in an activity. It's not charitable in, in the sense  
6 that he's sometimes using the word, but it does not have to be  
7 charitable in order for it to be reflecting her knowledge of  
8 the needs and issues of the community.

9 JUDGE MILLER: I will, I will overrule your  
10 objection, but will indicate that this is -- will not be  
11 included as a civic activity, but it may form part of her  
12 background as a business woman, which I will analyze.

13 MR. YELVERTON: Your Honor, continuing on this same  
14 page, all of the entries here reference generally business  
15 activities. Also some involvement in the community and I  
16 would move that the same ruling be applicable to, to any type  
17 of business-related activity on this page.

18 JUDGE MILLER: I'm not, I'm not going to do that,  
19 Mr. Yelverton. For instance, you know, you get -- you start  
20 to get hybrids when you get Columbus Chamber of Commerce. I  
21 mean that's -- sure. They'd be -- we're realists enough to  
22 know that people join the Chamber of Commerce because they  
23 figure in the long haul it's going to help their business. It  
24 gives them a profile in the community, but that's -- that  
25 doesn't make it less of a civic activity. So I'm, I'm -- your

1 general objection will be overruled in a general fashion.

2 MR. YELVERTON: Thank you, Your Honor. Continuing  
3 page 6, the last two entries I have a different objection.  
4 First one being Columbus Government Workshop -- Workshop  
5 Panelist, 1992. Move that be stricken as post-filing. Filing  
6 date was December 1991, this was 1992. So this would be  
7 activities entered into after filing of the application.

8 JUDGE MILLER: And the same goes for the next one?

9 MR. YELVERTON: Yes, Ohio Department of  
10 Development's Women in Business Panelist, 1992.

11 JUDGE MILLER: Searchlight, Mr. Alpert, what's your  
12 response to searchlight?

13 MR. ALPERT: Searchlight?

14 JUDGE MILLER: Well, you're under -- once, once the  
15 applicant is under the searchlight --

16 MR. ALPERT: Oh, I see what you mean.

17 JUDGE MILLER: -- you don't run around bettering  
18 your comparative qualifications and I kind of shortened all of  
19 that nonsense to just call it searchlight. But --

20 MR. ALPERT: It's my understanding the Commission  
21 has ruled that reduced credit to be given for activities which  
22 are begun after the application is filed, but it doesn't go so  
23 far as to say that there are -- there is no credit to be  
24 accorded to it.

25 JUDGE MILLER: Well --

1           MR. ALPERT: If, if reduced credit is all that we  
2 deserve, but -- and besides that, he's assuming -- I mean I'm  
3 not sure if his assumption is correct or incorrect, but he's  
4 assuming that this would be 1992 after the B cutoff date in  
5 this proceeding, and it might very well have been before the B  
6 cutoff date that some of these activities were participated in  
7 to some extent. Which also leaves it -- she's entitled to  
8 approve her comparative standing before the B cutoff date of  
9 the proceeding.

10           JUDGE MILLER: Your, your objection is sustained,  
11 Mr. Yelverton, and if the Commission wants to give some  
12 limited credit, the Commission can do it, because I have to  
13 draw some rules or some lines somewhere and I draw mine at  
14 the, at the filing of the application, Mr. Alpert. Don't --  
15 tell Ms. Davis not to feel bad about that, because it happens  
16 to everybody. Proceed, Mr. Yelverton.

17           MR. YELVERTON: Thank you, Your Honor. Page 7 of 7,  
18 second entry, I move that be stricken on the same basis under  
19 the searchlight ruling, which -- Judge for the Entrepreneur of  
20 the Year 1992 awards, in which she aided in selecting 1992  
21 awardees.

22           JUDGE MILLER: Same ruling, Mr. Alpert.

23           MR. ALPERT: Thank you.

24           MR. YELVERTON: Also move to strike the last entry  
25 with the zero in the left margin, financial contributor to

1 many charitable causes. I believe the Commission does not  
2 give credit, civic involvement, merely for giving money.

3 JUDGE MILLER: Your objection's overruled. Let me  
4 say this. I appreciate the candor of the witness. I've had  
5 so many of these cases and so many instances where they don't  
6 bother to say that all they are were a financial contributor  
7 and we have to go through 20 minutes of cross-examination to  
8 find out that all they were were a financial contributor. So  
9 I will leave that stand for what it's worth.

10 MR. YELVERTON: Thank you, Your Honor.

11 JUDGE MILLER: Any further objections?

12 MR. YELVERTON: Yes. Attachment A, move that be  
13 stricken. Commission does not recognize newspaper articles as  
14 having --

15 JUDGE MILLER: Well, why don't you just -- why are  
16 you just including A in that objection, Mr. Yelverton?

17 MR. YELVERTON: Well, I thought --

18 JUDGE MILLER: I mean, I don't want to be -- I don't  
19 need to be here all day --

20 MR. YELVERTON: -- since it was segmented, I thought  
21 we had to go section-by-section, but I move to strike all the  
22 newspaper articles.

23 JUDGE MILLER: Now, that, that includes -- there are  
24 some -- there are some other things in here that I, I --

25 MR. YELVERTON: Probably --



1 JUDGE MILLER: -- like letters --  
2 MR. YELVERTON: -- have a valid objection to.  
3 JUDGE MILLER: But you're just talking about the  
4 newspaper articles?  
5 MR. YELVERTON: Yes.  
6 JUDGE MILLER: And now what -- and your objection is  
7 what?  
8 MR. YELVERTON: That under Commission policy,  
9 newspaper articles have no probative value.  
10 JUDGE MILLER: All right. Now, let's, let's get the  
11 scope of our objection. A, B, C --  
12 MR. YELVERTON: C.  
13 JUDGE MILLER: D.  
14 MR. YELVERTON: D. E.  
15 JUDGE MILLER: E.  
16 MR. YELVERTON: F.  
17 JUDGE MILLER: F.  
18 MR. YELVERTON: G.  
19 JUDGE MILLER: G.  
20 MR. YELVERTON: H.  
21 JUDGE MILLER: H.  
22 MR. YELVERTON: Now, I has a, a letter which I have  
23 a different --  
24 JUDGE MILLER: Well, we'll talk, we'll talk about  
25 that. You're not including I in this objection.